The February 18, 2021 meeting of the Plan and Zoning Commission was held via virtual Zoom Webinar ID 840 5621 6153.


P&Z ABSENT: None

STAFF PARTICIPANTS: Bert Drost, Jason Van Essen, Katherine Drahos, Erik Lundy, Judy Parks-Kruse and Tyler Hall.

Carolyn Jenison made a motion to approve the February 4, 2021 Plan and Zoning Commission meeting minutes. Motion carried 12-0-1 (Greg Wattier abstained as he was not present for the February 4 meeting).

(Rocky Sposato joined the meeting.)

Erik Lundy stated the applicant for item #4 agrees with staff recommendation and could be considered under the consent agenda.

Jann Freed made a motion to move item #4 to the consent agenda. Motion Carried 14-0

Dory Briles asked if any members of the public or the Commission requested to speak on consent agenda items #1, #2 or #4. Member of the public requested to speak on item #2.

Emily Webb made a motion to approve Consent Agenda Items #1 and #4. Motion carried 14-0

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

City initiated request for amendment to the text of Chapter 134 of the City Code, to make revisions allowing for minor expansion of legal non-conforming one and two household residential uses and to allow new detached accessory structures associated with those uses. 

(STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

The proposed ordinance to amend the Zoning Ordinance in Chapter 134 is attached.

The following is a summary of the proposed amendments:
\begin{itemize}
  \item New Section 134-7.2.3.B allows a nonconforming residential use within a one-household or two-household residential structure to be expanded subject to a Type 1 zoning exception (administrative) or Type 2 zoning exception (Zoning Board of Adjustment).
  
  \item Per revised Section 134-6.5.2, Staff can grant a Type 1 zoning exception to allow a nonconforming residential use within a one-household or two-household residential structure to expand, provided that the expansion has an estimated cost for building permit purposes that does not exceed thirty percent (30\%) of the assessed value of the existing residential structure. The valuation of expansions would be measured cumulatively from the effective date of the proposed code amendment.
  
  \item Per revised Section 134-6.6.2, the Zoning Board of Adjustment can grant a Type 2 zoning exception to allow a nonconforming residential use within a one-household or two-household residential structure to expand, provided that the expansion has an estimated cost for building permit purposes that is between thirty-one and fifty percent (31-50\%) of the assessed value of the existing residential structure. The valuation of expansions would be measured cumulatively from the effective date of the proposed code amendment.
  
  \item New Section 134-7.2.3.C allows an outbuilding or detached private garage to be constructed on a lot containing a nonconforming residential use within a one-household or two-household structure. The outbuilding or detached garage would need to comply Section 134-3.9 of this chapter and Section 135-2.22.2.C of the code. The outbuilding or detached private garage would be treated as if it were located on a lot zoned Neighborhood (N) or Neighborhood Mix (NX) for purposes of determining lot coverage limits. Construction of an outbuilding or garage would not require a Type 1 or Type 2 Design Alternative and would not count towards the cumulative permit total for the principal structure under Sections 134-6.5.2 or 134-6.6.2.
\end{itemize}

II. ADDITIONAL APPLICABLE INFORMATION

The proposed revisions provide a pathway for limited expansions of legal nonconforming One- and Two-Household Living dwelling uses that is more reasonable than requiring the property owner to seek a rezoning or a use variance for the property.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the Commission find the proposed amendments to the Zoning Ordinance are in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part B) Staff recommends approval of the proposed amendments to the Zoning Ordinance.
SUMMARY OF DISCUSSION

Dory Briles asked if any member of the public or the commission desired to speak on the item. No one requested to speak.

COMMISSION ACTION:

Emily Webb made a motion for approval of Part A) the Commission find the proposed amendments to the Zoning Ordinance are in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan and Part B) APPROVAL of the proposed amendments to the Zoning Ordinance.

THE VOTE: 14-0

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Item 4

Request from Meier Family, LLC (owner) represented by Charles Meier (officer) for the following regarding the property located at 1324 and 1348 East Euclid Avenue.

A) Determination as to whether the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

B) Rezone property from “MX3” Mixed Use District to “RX2” Mixed Use District, to allow the property to be redeveloped with ground floor Multiple Household Living use.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is seeking to convert hotel buildings to multiple household living uses. The “MX3” Mixed Use District only allows household living units on upper floors only per the City Code Table 134-3.1-1. The requested “RX2” Mixed Use District allows household living on all floors.

2. Size of Site: 1.8 acres.


4. Existing Land Use (site): Lodging: Hotel/Motel.

5. Adjacent Land Use and Zoning:
North – “N3a”; Uses are vacant land and One Household dwellings.

South – “MX3” & “MX3-V”, Uses are Restaurant with drive-through window (McDonald’s) and Financial Service with drive-through (Great Western Bank).

East – “MX3-V”; Use is vacant restaurant.

West – “MX3”; Use is Retail, General (Cash Saver).


7. Applicable Recognized Neighborhood(s): The subject property is in the Highland Park Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on January 29, 2021 and by mailing of the Final Agenda on February 12, 2021. Additionally, separate notifications of the hearing for this specific item were mailed January 29, 2021 (20 days prior to the hearing) and February 28, 2021 (10 days prior to the hearing) to the Highland Park Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

   All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Highland Park Neighborhood Association notices were mailed to Ashley Kennebeck, 3818 7th Street, Des Moines, IA 50313.

8. Relevant Zoning History: The subject property was zoned to “MX3” Mixed Use District as part of the citywide Zoning Ordinance and Map update effective on December 16, 2019.

9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:
Community Mixed Use within a Community Node.

10. Applicable Regulations: Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.
II. ADDITIONAL APPLICABLE INFORMATION

1. **PlanDSM Creating Our Tomorrow:** The subject property is designated “Community Mixed Use” within a Community Node. Plan DSM describes this designation as follows:

   **Community Mixed Use**
   Small- to medium-scale mixed use development, located on high capacity transit corridors or at the intersection of transportation corridors. Community mixed use areas include both a mix of medium density residential and a mix of retail and service establishments designed to attract customers from a large service area encompassing multiple neighborhoods and may include specialty retail that attracts regional customers.

   Residential Land Use Density is also boosted to allow High Density Residential when Community Mixed Use is within a Community Node.

   **High Density Residential**
   Areas developed with primarily higher intensity multi-family housing with a minimum density over 17 dwelling units per net acre.

   Based on these designations, the proposed “RX2” Mixed Use District zoning would be found in conformance with the Comprehensive Plan with densities in excess of 17 units per acre. The unit density proposed by the applicant would be over 35 units per acres. Staff believes the proposed rezoning is appropriate given the location of the subject property on a high-volume transportation corridor.

2. **Planning and Design Ordinance:** Any conversion from Lodging, Hotel to Multiple Household Living must comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance. The “RX2” Mixed Use District would allow for the review under the General Building Type requirements in Chapter 135, Section 135-2.7.

3. **Staff Rationale:** Staff believes that the proposed conversion of the properties is appropriate given their location within a Community Node. The existing buildings lend themselves to the proposed conversion of use and are arranged readily for household living units. PlanDSM contemplates density within nodes and provides opportunities for affordable housing within close proximity to a range of services.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning to “RX2” Mixed Use District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Community Mixed Use within a Community Node.

Part B) Staff recommends approval of requested rezoning the subject property from “MX3” Mixed Use District to “RX2” Mixed-Use.
SUMMARY OF DISCUSSION

Dory Briles asked if any member of the public or the commission desired to speak on the item. No one requested to speak.

COMMISSION ACTION:

Emily Webb made a motion for approval of Part A) the proposed rezoning to “RX2” Mixed Use District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Community Mixed Use within a Community Node and Part B) APPROVAL of requested rezoning the subject property from “MX3” Mixed Use District to “RX2” Mixed-Use.

THE VOTE: 14-0

NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 2

Request from Calvin Park Mixed-Use Condominiums (owner) represented by Carl Koedam (officer) for review and approval of a 1st Amendment to the “Calvin Community” Legacy PUD Conceptual Plan, on property located at 4326 Hickman Road, to allow revision to reduce the number of units on the mixed-use building from 42 to 36 units with elimination of a 5th floor, elimination of a propose skybridge connection to the main campus on the east, modification of the north drive access to 44th Street, addition of directional signs, elimination of access gates to the row townhomes, and addition of utility meters to the west façade of the row townhomes. Additional property owners include Calvin Community Corporation and Calvin Park Townhomes Condominiums. (ZON2021-00012)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed PUD Conceptual Plan amendment would allow for a revised monument sign concept and for the installation of directional signage. The proposed amendment also acknowledges discrepancies between the PUD Conceptual Plan and how the project was constructed, including the overall height of the mixed-use building, the material used to pave the emergency access drive to 44th Street, and the placement of utility meters on the west façade of the building. Collapsible bollards and signage were added to limit use of the emergency access drive.
Currently, the PUD Conceptual Plan allows for a skybridge connection to be constructed to a building on the Calvin Community property to the east and for an access gate to be installed for the driveway to the townhomes that have not been constructed to date. The applicant has determined that they may construct these elements in the future and has withdrawn the portion of their request that would have eliminated them from the PUD Conceptual Plan.

2. **Size of Site:** 2.58 acres (112, 367 square feet).

3. **Existing Zoning (site):** Calvin Community “Legacy PUD” District.

4. **Existing Land Use (site):** Mixed-use building and townhomes.

5. **Adjacent Land Use and Zoning:**
   - **North** – “RX1” & “N4”, Uses are a restaurant and single-family dwellings.
   - **South** – “N4”, Uses are single-family dwellings.
   - **East** – “NX1”. Use is the Calvin Community (continuing care facility).
   - **West** – “N4”, Uses are a retail building and single-family dwellings.

6. **General Neighborhood/Area Land Uses:** The subject property is located on the southeast corner of the Hickman Road and 44th Street intersection. The Hickman Road corridor consists of a variety of residential and commercial uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Beaverdale Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on January 29, 2021 and a Final Agenda on February 12, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on January 29, 2021 (20 days prior to the hearing) and February 8, 2021 (10 days prior to the hearing) to the Beaverdale Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

   All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Beaverdale Neighborhood Association notices were mailed to Marcus Coenen, P.O. Box 30175, Des Moines, IA 50310.

8. **Relevant Zoning History:** On November 23, 2015, the City Council approved Ordinance Number 15,430 rezoning the subject property from “C-1” Neighborhood Retail Commercial District and “R1-60” One-Family Low-Density Residential District to “PUD” Planned Unit Development District. The Calvin Community PUD Conceptual Plan was approved by Roll Call 15-2015 at the same Council meeting.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:**
   - Neighborhood Mixed Use.
10. Applicable Regulations: Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

The application, accompanying evidence and “PUD” Conceptual Plan shall be considered by the Plan and Zoning commission at a public hearing. The Commission shall review the conformity of the proposed development with the standards of the City Code and with recognized principles of civic design, land use planning, and landscape architecture. At the conclusion of the hearing, the Commission may vote to recommend either approval or disapproval of the amended “PUD” Conceptual Plan as submitted, or to recommend that the developer amend the plan or request to preserve the intent and purpose of this chapter to promote public health, safety, morals and general welfare. The recommendations of the Commission shall be referred to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. Signage: The proposed Conceptual Plan amendment would not increase the size of the monument sign structure. However, it would expand the area on the north side of the structure that could be dedicated to text and logos, and would allow directional signage to be added to the west facade of the monument sign structure that was not envisioned with the original PUD Conceptual Plan. A directional sign is also proposed along Franklin Avenue at the driveway.

III. STAFF RECOMMENDATION

Staff recommends approval of the proposed amendment to the “Calvin Community” Legacy PUD Conceptual Plan.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

Steve Grasso had technical difficulties and could not be heard clearly.

Jason Van Essen offered to forward any questions the commission may have for Mr. Grasso and facilitate a response.

CHAIRPERSON OPENED THE PUBLIC HEARING

Valerie Findley 2102 44th Street stated the notices she received didn’t show the items struck as they do on tonight’s agenda.
Jason Van Essen stated when the application came in, staff was under the impression they were no longer interested in building those 2 elements. The applicant might pursue those at some point. As a result, the request to eliminate them from the PUD has been removed from the agenda.

Valerie Findley asked if they were not going to add a second access off 44th Street?

Jason Van Essen stated that is correct.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

**COMMISSION ACTION:**

Rocky Sposato made a motion for approval of the proposed amendment to the “Calvin Community” Legacy PUD Conceptual Plan.

**THE VOTE: 14-0**

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**Item 3**

Request from Woodsonia Acquisitions, LLC (purchaser) represented by Jeff Elliott (officer), for the following regarding the property at of 2510 Ingersoll Avenue. The subject property is owned by the Noah L & Sara Ann Lacona Revocable Trust (owner):

A) Determination as to whether the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

B) Rezone property from “MX2” Mixed Use District to “MX3” Mixed Use District, to allow use of the property for a “Restaurant” use with a “Drive-Through” component as an accessory use. (ZON2020-00166)

C) Review and approval of a Public Hearing Site Plan for considering the following Type 2 Design Alternatives in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B Public Hearing Site Plan for “2510 Ingersoll Avenue Coffee Shop” to allow reuse of the existing restaurant for a coffee restaurant with an accessory drive-through. The titleholder is Noah & Sara Ann Lacona Revocable Trust. (10-2021-7.01)

1) Allowance of drive-through facility on the front façade of the building when limited to an interior side or rear façade per Section 135-2.22.3.D.
2) Allowance of on-site parking and maneuvering in the front yard when limited to interior side and rear yards per Section 135-2.5.3.A.8.
3) Waiver of the requirement of a primary entrance on the primary frontage façade per Section 135-2.5.3.D.20.
I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to renovate the existing building and site. The value of the improvements that require building permits exceeds 50% of the assessed value of the building. As a result, the building and site must be brought into conformance with current standards. The Planning and Design Ordinance does not allow drive-through facilities on properties zoned “MX2” District. Therefore, the applicant is requesting to rezone the property to the “MX3” District to allow a drive-through. Parts A and B of the request are continued from the January 21, 2021 meeting. The applicant is also requested review and approval of the Site Plan, which would be contingent upon final approval of the rezoning by City Council.

2. Size of Site: 33,964 square feet or 0.78 acres.


4. Existing Land Use (site): The site contains a one story commercial building with 3,873 square feet of gross floor area.

5. Adjacent Land Use and Zoning:
   
   **North** – “MX2”; Uses are commercial in nature.
   
   **South** – “RX2”; Uses are commercial in nature.
   
   **East** – “MX2”; Uses are commercial in nature.
   
   **West** – “MX2”; Uses are commercial in nature.

6. General Neighborhood/Area Land Uses: The subject property is located on the Ingersoll Avenue corridor, which contains a mix of commercial and multiple-family residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the Woodland Heights Organization Neighborhood. The neighborhood association was notified of the January 21, 2021 public hearing by mailing of the Preliminary Agenda on January 7, 2021 and by mailing of the Final Agenda on January 15, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on December 30, 2020 (20 days prior to the January 21, 2021 public hearing) and January 11, 2020 (10 days prior to the January 21, 2021 public hearing) to the Woodland Heights Organization and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

   The neighborhood association was notified of the February 18, 2021 public hearing by mailing of the Preliminary Agenda on January 29, 2021 and by mailing of the
Final Agenda on February 12, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on January 29, 2021 (20 days prior to the February 18, 2021 public hearing) and on February 8, 2021 (10 days prior to the February 18, 2021 public hearing) to the Woodland Heights Organization and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Woodland Heights Organization notices were mailed to Phil Kreznor, 808 25th Street, Des Moines, IA 50312.

8. Relevant Zoning History: N/A.


10. Applicable Regulations: Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

Pursuant to Section 135-9.1.1.B of the Planning and Design Ordinance, the site plan review requirements of Chapter 135 are designed to ensure the orderly and harmonious development of property in a manner that shall:

- Promote the most beneficial relation between present and proposed future uses of land and the present and proposed future circulation of traffic throughout the city;

- Permit present development of property commensurate with fair and orderly planning for future development of other properties in the various areas of the city with respect to the availability and capacity, present and foreseeable, of public facilities and services. The factors to be considered in arriving at a conclusion concerning proposed present development of property shall include the following:

  - The maximum population density for the proposed development, the proposed density of use, and consideration of the effect the proposal will have on the capacity of existing water and sanitary sewer lines to the end that existing systems will not become overloaded or capacity so substantially decreased that site use will inhibit or preclude planned
future development;

- Zoning restrictions at the time of the proposal;
- The city’s comprehensive plan;
- The city’s plans for future construction and provision for public facilities and services; and
- The facilities and services already available to the area which will be affected by the proposed site use;
- Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in various areas of the city will not be adversely affected;
- Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;
- Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and
- Consider the smart planning principles set forth in Iowa Code Chapter 18B.

Based on Chapter Section 135-9.2.4 and 135-9.3.1.B of the Planning and Design Ordinance, Type 2 Design Alternatives are to be considered by the Plan and Zoning Commission after a public hearing whereby the following criteria are considered:

- The design alternative provisions of Section 135-9.2.4 are intended to authorize the granting of relief from strict compliance with the regulations of this chapter as part of the site plan or alternate design documentation review process when specific site features or characteristics of the subject property, including the presence of existing buildings, creates conditions that make strict compliance with applicable regulations impractical or undesirable. The design alternative provisions are also intended to recognize that alternative design solutions may result in equal or better implementation of the regulation’s intended purpose and greater consistency with the comprehensive plan.

- Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:
  - An evaluation of the character of the surrounding neighborhood, such as:
Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and

Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);

- For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination will be based upon the assumption that such lots, as if developed, comply with the applicable requirements of this chapter for which a design alternative(s) has been requested;

  - The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;

  - Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;

  - Whether the requested design alternative(s) will have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare;

  - Whether any adverse impacts resulting from the requested design alternative(s) will be mitigated to the maximum extent feasible; and

  - Other factors determined relevant by the community development director, plan and zoning commission, or city council as applicable.

II. ADDITIONAL APPLICABLE INFORMATION

1. **PlanDSM Creating Our Tomorrow**: The subject property is designated as “Community Mixed Use” and located in a “Neighborhood Node” on the Future Land Use Map. Plan DSM describes these designations as follows:

   Community Mixed Use: Small scale mixed use development, located on high capacity transit corridors or at the intersections of transportation corridors. Community mixed use areas include both a mix of medium density residential and a mix of retail and service establishments designed to attract customers from a large service area encompassing multiple neighborhoods and may include specialty retail that attracts regional customers.

   Neighborhood Node: These nodes are the smallest in size and offer services that provide for basic daily needs of the local population in the surrounding neighborhood. May include restaurants, shops and smaller
scale businesses. Residential development including low-medium and medium densities may occur.

The applicant is proposing to rezone the property from “MX2” District to the “MX3” District. The Zoning Ordinance states that the “MX2 is intended for mixed-use, regional-scale nodes and corridors within the city, where residents and visitors may access multiple uses by walking.” Building types allowed in this district include Storefront, Civic Building and Principal Use Parking Structure.

The Zoning Ordinance states that the “MX3 is intended for mixed-use nodes and corridors within the city, where residents and visitors may access multiple uses by walking and automobiles. This district accommodates higher intensity commercial uses at a smaller scale.” Building types allowed in this district include Storefront, Commercial Cottage, Commercial Center, Civic Building and Principal Use Parking Structure.

The Ingersoll Avenue corridor is generally zoned “MX2” District, including the properties around the subject property. Staff believes that the proposed use is appropriate for the character of the area, but believes other uses that are allowed in “MX3” Districts but not in “MX2” Districts should be prohibited.

2. Drive-Through Facility: Section 135-2.22.3.D of the Planning and Design Ordinance requires drive-through facilities to be located on the side and rear facades of the building. The proposed development consists of the reuse of a restaurant building that was constructed with a drive-through window on the north side of the building facing Ingersoll Avenue. Relocating the drive-through to the east façade is not practical, as the floor of the building is elevated in this area due to grade changes on the site. Placing the drive-through window on the rear façade is not practical either, as it would significant reduce the amount of space available for vehicle stacking and negatively impact the functionality of the parking lot. The applicant is proposing to enclose the drive-through window area with a roof and glass wall that complement the proposed building renovations. Landscaping and a patio space are proposed between the public sidewalk and the drive-through lane to provide a buffer. The requested design alternative would not have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare. Staff supports this Type 2 Design Alternative request.

3. Parking: Section 135-2.5.3.A.8 of the Planning and Design Ordinance does not allow parking to extend into the front yard. The bulk of the parking would be located in the rear and east side yards. However, one stall would be located north of the building in the required front yard. The stall is substantially setback from the property line and separated by a large utility easement and heavy landscaping. This parking stall would set further back from the front property line than the drive-through lane. The requested design alternative would not have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare. Staff supports this Type 2 Design Alternative request.
4. **Primary Building Entrance:** Section 135-2.5.3.D.20 of the Planning and Design Ordinance requires a Storefront Building to have a primary entrance that faces the street. The primary entrance to the building would be located on the west side façade. The building currently has a door that faces the street. However, it is located near the drive-through and is not positioned well to function as a logical access point from the Ingersoll Avenue sidewalk due to grade changes and drive-through traffic. A patio space has been provided at the front property line that would act as a pedestrian entrance to the site with a visual connection to the front door created by a crosswalk. Signage and a roof overhang would be positioned in close proximity to the main entrance door to draw attention to it from the public sidewalk. The requested design alternative would not have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area, or the public health, safety and general welfare. Staff supports this Type 2 Design Alternative request.

5. **Vehicular Access:** The site would have two driveways along Ingersoll Avenue. The City’s Traffic and Transportation Division has indicated the eastern driveway needs to be narrowed to the minimum width necessary for a one-way drive. Staff recommends that doing so be a condition of approval.

III. **STAFF RECOMMENDATION**

Part A) Staff recommends that the proposed rezoning to “MX3” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Community Mixed Use” within a “Neighborhood Node.”

Part B) Staff recommends the subject property be rezoned from “MX2” Mixed Use District to “MX3” Mixed Use District, subject to Permitted and Conditional Uses being limited to a restaurant with a drive-through component and those Permitted and Conditional Uses in common with the “MX2” Mixed Use District and as limited in the “MX2” Mixed Use District.

Part C) Staff recommends approval of the requested Type 2 Design Alternatives and of the proposed Public Hearing Site Plan subject to the following:

1. The easternmost driveway shall be reduced to the width necessary for one-way traffic to the satisfaction of the City Traffic Engineer.
2. All on-site crosswalks shall be constructed of pavers, stained concrete or other comparable means as approved by the City’s Planning and Urban Design Administrator.
3. Additional plantings shall be provided along the north and northeast perimeter of the drive-through lane to the satisfaction of the City’s Planning and Urban Design Administrator.
4. Revision of the of the Site Plan and Building Elevations to comply with any approved Type 1 and Type 2 Design Alternatives.
5. Revision of the Site Plan and Building Elevations to comply with all administrative review comments

**SUMMARY OF DISCUSSION**

Jason Van Essen presented the staff report and recommendation.

Clark Snyder 1717 Ingersoll Avenue, representing Simonson and Associates, stated they are in full support of staff recommendation and would be happy to answer any questions the commission might have.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Carol Maher 701 Polk Boulevard, stated this is a very car centric design and is concerned about the promotion of bike lanes on Ingersoll being compromised by the drive-through. It would be nice for bike lanes to be shown in the renderings, the amount of car traffic is a big risk to bicyclist. She is also curious if the owner of the property will be responsible for shoveling the split sidewalk shown in the rendering.

Clark Snyder stated the row of trees and the double sidewalk shown in the renderings are a part of the City’s Ingersoll Streetscape project. There will be a bike rack placed on the east side of the patio. They understand there will be peak times of business but they have done everything they can to maximize stacking within the site.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Valerie Findley 2102 44th Street, asked where the handicap parking would be in relation to access into the building.

Jason Van Essen stated they would need to provide a stall within the site as shown on their site plan. They meet the intent of the code and the City’s Engineering department didn’t raise any concerns with the proposed layout.

Valerie Findley stated the access would be through the line of cars, is that accurate?

Jason Van Essen stated yes.

Valerie Findley stated that would be problematic. Where would be the closest access for someone using a wheelchair?

Jason Van Essen stated there is an entrance that faces the parking lot.

Valerie Findley stated for a person that assist people in wheelchairs, this is very problematic from a safety standpoint.

**COMMISSION ACTION:**
Rocky Sposato made a motion for **APPROVAL** of Part A) the proposed rezoning to “MX3” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Community Mixed Use” within a “Neighborhood Node.”, **APPROVAL** of Part B) the subject property be rezoned from “MX2” Mixed Use District to “MX3” Mixed Use District, subject to Permitted and Conditional Uses being limited to a restaurant with a drive-through component and those Permitted and Conditional Uses in common with the “MX2” Mixed Use District and as limited in the “MX2” Mixed Use District and Part C) **APPROVAL** of the requested Type 2 Design Alternatives and of the proposed Public Hearing Site Plan subject to the following:

1. The easternmost driveway shall be reduced to the width necessary for one-way traffic to the satisfaction of the City Traffic Engineer.

2. All on-site crosswalks shall be constructed of pavers, stained concrete or other comparable means as approved by the City’s Planning and Urban Design Administrator.

3. Additional plantings shall be provided along the north and northeast perimeter of the drive-through lane to the satisfaction of the City’s Planning and Urban Design Administrator.

4. Revision of the of the Site Plan and Building Elevations to comply with any approved Type 1 and Type 2 Design Alternatives.

5. Revision of the Site Plan and Building Elevations to comply with all administrative review comments

**THE VOTE:** 14-0

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**Item 5**

Request from Hilltop Housing, LLC (owner) represented by J.B. Conlin (officer) for property located at 3722 Hubbell Avenue, 3726 Hubbell Avenue, 3680 Kennedy Drive, and 3688 Kennedy Drive. Additional property owners include Hilltop Senior, LP; Hilltop I, LP; and Hilltop II, LP.

A) Determination as to whether the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

B) Amendment to the PlanDSM Creating Our Tomorrow Plan future land use classification from Medium Density Residential within a Community Node to High Density Residential within a Community Node. (21-2021-4.04)

C) 1st Amendment to the to the “Hilltop Apartments” Legacy PUD Conceptual Plan to allow construction of two 42-unit household dwellings in place of the approved
dwelling units within a 30-unit household dwelling, a 36-unit household dwelling, and several two-household dwellings. The amendment would not alter the total number of dwelling units (254) allowed within the development.

(ZON2021-00011)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed amendment to the “Hilltop Apartments PUD” Conceptual Plan would allow construction of two 42-unit household dwellings in place of the approved dwelling units within multiple two-household dwellings, a 30-unit household dwelling, and a 36-unit household dwelling. The total number of dwelling units allowed by the resulting PUD Conceptual Plan would remain constant at 254 dwelling units.

Any future construction must be in accordance with a “PUD” Development Site Plan that would be reviewed and recommended by the Plan and Zoning Commission and approved by the City Council. Such a Site Plan has not been submitted for review at this time.


3. Existing Zoning (site): “Hilltop Apartments PUD” Planned Unit Development District.

4. Existing Land Use (site): The site currently contains four (4) multi-household structures containing a total of 170 dwelling units and a clubhouse building.

5. Adjacent Land Use and Zoning to Site of Amendment:

   North – “N2b” & “F”, Uses include a single-family dwelling and floodplain along Four Mile Creek.

   South – “MX3”, Uses include Hubbell Avenue, Kennedy Avenue, a gas station/convenience store (QuikTrip), and a photo copy business (Copy Center).

   East - “MX3” & “N2a-2”, Uses include a car wash, six (6) two-household dwellings (12 dwelling units), and three (3) single-household dwellings.

   West – “PUD” & “RX1”, Use is multiple-family residential with 240 dwelling units within 10 buildings.

6. General Neighborhood/Area Land Uses: The subject property is located along the northwest side of Hubbell Avenue at its intersection with East Douglas Avenue. The surrounding area includes a mix of multiple-household residential, commercial, and institutional uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is within 250 feet of the Sheridan Gardens Neighborhood. This neighborhood was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhoods on January 29, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on January 29, 2021 (20 days prior to the hearing) and February 8, 2021 (10 days prior to the hearing) to the Sheridan Gardens Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on February 12, 2021.

All agendas and notices are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Sheridan Gardens Neighborhood Association mailings were sent to Kurt Lee, 3507 E 39th Court, Des Moines, IA 50317.

The applicant mailing the required neighborhood outreach letter to surrounding property owners on January 21, 2021. The applicant will be available to provide a summary of the meeting at the public hearing.

8. **Relevant Zoning History:** On November 19, 2012, the City Council rezoned the subject property to “PUD” District (Ordinance 15,142) and approved the original “PUD” Conceptual Plan.

9. **PlanDSM Creating Our Tomorrow Designation:** The subject property is currently designated as Community Mixed Use and Medium Density Residential within a Community Node centered at the intersection of Hubbell Avenue and East 38th Street. The 254 dwelling units on the 14.62-acre site represents a net density of 17.37 units per acre. Therefore, the land use designation for the northern portion of the site should be revised from Medium Density Residential to High Density Residential, which accommodates densities over 17 units per acre.

10. **Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the application, accompanying evidence and Conceptual Plan shall be considered by the Plan and Zoning commission at a public hearing. The Commission shall review the conformity of the proposed development with the standards of the City Code and with recognized principles of civic design, land use planning, and landscape architecture. At the conclusion of the hearing, the Commission may vote to recommend either approval or disapproval of the amended “PUD” Conceptual Plan as submitted, or to recommend that the developer amend the plan or request to preserve the intent and purpose of this chapter to promote public health, safety, morals and general welfare. The recommendations of the Commission shall be referred to the City Council.

### III. ADDITIONAL APPLICABLE INFORMATION

1. **Urban Design:** The proposed amendment to the PUD Conceptual Plan would allow construction of two (2) new multiple-household structures. One of the structures
would be oriented north-to-south within the eastern portion of the property and the other would be oriented east-to-west within the northern portion of the property. The elevations demonstrate that the buildings would generally match the architectural character of the four (4) existing multiple-household dwellings on the site. However, the elevations demonstrate that the east façade of the easternmost building and the north façade of the northernmost building would only have a masonry wainscot. Given the visibility of these buildings from the residential uses to the east, Staff recommends that stone and brick masonry be provided on at least 2/3 of all facades instead of the wainscot so that the materials are consistent on all facades.

The elevations demonstrate that there would be “thru-wall air conditioning units”. Staff recommends that a note be added to state that these shall be designed and painted to blend with the buildings.

2. Traffic/Street System: The PUD Conceptual Plan states that a traffic study was approved by the City in 2013 when the initial phase of the development was constructed.

The intersection of Hubbell Avenue and East Douglas Avenue has recently been realigned, which has allowed the main vehicular entrance for the development to be served by a stoplight along Hubbell Avenue. The PUD Conceptual Plan also provides a drive approach from Kennedy Drive (former segment of East Douglas Avenue) and an internal driveway connection at the north provided by an easement from the adjoining property.

The PUD Conceptual Plan demonstrates a total of 457 off-street parking spaces would be provided for the 254 dwelling, resulting in 1.80 parking spaces per dwelling unit.

There is existing sidewalk along all public streets, as a note on Sheet 1 of the PUD Conceptual Plan states that sidewalk shall be provided along all public streets fronting the PUD. Staff recommends that Sheets 2 and 3 of the PUD Conceptual Plan be revised to demonstrate these sidewalks, as well as the existing shelter at the transit stop along Hubbell Avenue. The PUD Conceptual Plan also demonstrates a network of sidewalks throughout the development. Staff recommends that the proposed north/south sidewalk through the eastern portion of the site be extended southerly to the east/west sidewalk that provide a pedestrian connection from the public sidewalk along Hubbell Avenue.

3. Landscaping: The proposed “PUD” Conceptual Plan demonstrates significant landscaping and plantings throughout the site. It also provides a 30-foot wide landscape buffer along the east property line and a 20-foot wide landscape buffer along the north property line. Both buffers would contain a 6-foot tall fence, as well as 4 overstory trees and a mix of at least 8 additional evergreen, ornamental, or overstory trees, per 100 lineal feet. Staff recommends that the note be clarified to state that the fence within the buffers would be 100% opaque (solid). The proposed “PUD” Conceptual Plan states that the site will be landscaped in accordance with the landscaping regulations applicable in the “R-3” District. Staff
recommends that this note be revised to state that the site will be landscaped in accordance with the landscaping regulations applicable in the “NX3” District.

4. **Signage:** The proposed “PUD” Conceptual Plan states that signage will be allowed in accordance with the signage regulations applicable in the “R-3” District. Staff recommends that this note be revised to state that signage will be allowed in accordance with the signage regulations applicable in the “NX3” District.

III. **STAFF RECOMMENDATION**

Part A) Staff recommends that the Commission find the proposed amendment to the PUD is no in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part B) Staff recommends approval of an amendment to the PlanDSM Creating Our Tomorrow Plan future land use classification from Medium Density Residential within a Community Node to High Density Residential within a Community Node.

Part C) Staff recommends approval of the 1st Amendment to the to the “Hilltop Apartments” Legacy PUD Conceptual Plan, subject to the following:

1. The elevations for the two new structures, as provided on Sheets 5 & 6, shall be revised so that stone and brick masonry cover at least 2/3 of all facades.

2. Provision of a note to state that any “thru-wall air condition unit” shall be designed and painted to blend with the building.

3. Sheets 2 and 3 of the PUD Conceptual Plan shall be revised to demonstrate the existing sidewalks along Hubbell Avenue, as well as the existing shelter for the transit stop.

4. The proposed north/south sidewalk extending through the eastern portion of the site be extended southerly to the east/west sidewalk that provides a connection to the public sidewalk along Hubbell Avenue.

5. The notes on Sheet 2 pertaining to the landscape buffer shall be clarified to state that the proposed 6-foot tall fence shall be 100% opaque (solid).

6. The note on Sheet 1 pertaining to landscaping shall be revised to state that the site will be landscaped in accordance with the landscaping regulations applicable in the “NX3” District.

7. The note on Sheet 1 pertaining to signage shall be revised to state that any signage shall be in accordance with signage regulations applicable in the “NX3” District.

**SUMMARY OF DISCUSSION**

Bert Drost presented staff report and recommendation.
Will Page asked with the 2 proposed buildings constructed, how many units would still be available.

Bert Drost stated this would max out the 254 units.

JB Conlin 3721 SW 61st Street, stated the back building has been changed to senior living units. Both buildings will have applications to IFA so these were designed to be built together or separately depending on what is approved by IFA. They would rather follow the requirements by IFA, which is 50% of brick on the building. The back of these buildings will hardly be seen and with brick being expensive makes it seem like a luxury that would cause rent prices to rise. Regarding condition #2, they will use a powder coated metal screen for the air conditioners that will match the color used on the buildings.

CHAIRPERSON OPENED THE PUBLIC HEARING

Johnny Alcivar asked to clarify 50% of brick and masonry is what’s required by IFA?

JB Conlin stated that is correct but they don’t require a specific place for the brick and masonry.

Greg Wattier asked if the staff recommendation is to match the existing buildings or to be different.

Bert Drost stated it would be to match the architecture of the existing buildings on all 4 facades.

Greg Jones stated he likes the façade that has more brick but understands the applicants point of view around the 50% IFA requirement. Maybe they could move some around to the back so it doesn’t come out to be 2/3 and could lose a little bit on the front side.

Jason Van Essen stated staff was looking for consistency in the materials used between the existing buildings and the proposed buildings. Staff was not aware of how much the grade would be cut into with the project, which will obscure views of the back side of the buildings from the adjoining property. With seeing the graphic from the applicant showing the need for a retaining wall, staff is comfortable with what is proposed.

Rocky Sposato stated he would support striking condition #1 from the staff recommendation and rewording condition #2.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Greg Jones made a motion for the following:
Part A) The proposed amendment to the PUD is not in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part B) Approval of amending the PlanDSM Creating Our Tomorrow Plan future land use classification from Medium Density Residential within a Community Node to High Density Residential within a Community Node.

Part C) Approval of the 1st Amendment to the “Hilltop Apartments” Legacy PUD Conceptual Plan, subject to the following:

1. Provision of a note to state that any “thru-wall air condition unit” shall be of a design and color that blends with the building.

2. Sheets 2 and 3 of the PUD Conceptual Plan shall be revised to demonstrate the existing sidewalks along Hubbell Avenue, as well as the existing shelter for the transit stop.

3. The proposed north/south sidewalk extending through the eastern portion of the site be extended southerly to the east/west sidewalk that provides a connection to the public sidewalk along Hubbell Avenue.

4. The notes on Sheet 2 pertaining to the landscape buffer shall be clarified to state that the proposed 6-foot tall fence shall be 100% opaque (solid).

5. The note on Sheet 1 pertaining to landscaping shall be revised to state that the site will be landscaped in accordance with the landscaping regulations applicable in the “NX3” District.

6. The note on Sheet 1 pertaining to signage shall be revised to state that any signage shall be in accordance with signage regulations applicable in the “NX3” District.

THE VOTE: 14-0

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Item 6

Request from RM Madden Construction, Inc. (owner) represented by Michael Madden (officer) for review and approval of a Public Hearing Site Plan for the following denied Type 1 Design Alternative and Type 2 Design Alternative in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B, for property located at 147 East Marion Street, to allow construction of a new House Type B in an “N3a” Neighborhood District. (BLD2020-03143)
A) Allow 12% less than the minimum 12% of transparency on the primary façade as calculated per Section 135-2.14.3.D.18.
B) Waive the requirement for installation of public sidewalk along street frontages required per Section 135-8.5.2.
C) Waive the 4 street trees less than the required 5 street trees calculated per requirement per Section 135-7.5.C. (denied Type 1)
D) Allow Vinyl material as a major façade material where not allowed by Table 135-4.1-1 and by Section 135-4.3.11. (denied Type 1)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a 1,210-square foot one-household dwelling with a tuck-under garage. The applicant is seeking waiver of the requirement to install windows on the east (street side) facade of the house. The applicant is also requesting the ability to cover 100% of the dwelling with vinyl siding. The applicant has not proposed the necessary design alternatives to qualify for Type 1 relief to allow 100% vinyl siding.

The applicant is also requesting waiver of the street tree requirement and waiver of the standard that requires them to construct a public sidewalk along East Marion Street and Southeast 2nd Street.

Design alternative review criteria can be found in Section I, subparagraph 10 of this report. Staff analysis of the proposal can be found in Section II of the report.

2. Size of Site: 86 feet by 116 feet (9,930 square feet or 0.228 acres)

3. Existing Zoning (site): “N3a” Neighborhood District.

4. Existing Land Use (site): Undeveloped lot.

5. Adjacent Land Use and Zoning:

   North – “N3a”; Single-household dwelling.
   South – “N3a”; Single-household dwelling.
   East – “N3a”; Single-household dwellings.
   West – “N3a”; Single-household dwelling.

6. General Neighborhood/Area Land Uses: The subject property is in a residential area that consists primarily of single-household dwellings.

7. Applicable Recognized Neighborhood(s): The subject property is in the Magnolia Park Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on January 29, 2021 and by mailing of the Final Agenda on February 12, 2021. Additionally, separate notifications of the
hearing for this specific item were mailed on February 8, 2021 (10 days prior to the public hearing) to the Magnolia Park Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Magnolia Park Neighborhood mailings were sent to Webster Kranto, 310 E. Emma Avenue, Des Moines, IA 50315.

8. Relevant Zoning History: N/A.


10. Applicable Regulations: Pursuant to Section 135-9.1.1.B of the Planning and Design Ordinance, the site plan review requirements of Chapter 135 are designed to ensure the orderly and harmonious development of property in a manner that shall:

- Promote the most beneficial relation between present and proposed future uses of land and the present and proposed future circulation of traffic throughout the city;

- Permit present development of property commensurate with fair and orderly planning for future development of other properties in the various areas of the city with respect to the availability and capacity, present and foreseeable, of public facilities and services. The factors to be considered in arriving at a conclusion concerning proposed present development of property shall include the following:

  - The maximum population density for the proposed development, the proposed density of use, and consideration of the effect the proposal will have on the capacity of existing water and sanitary sewer lines to the end that existing systems will not become overloaded or capacity so substantially decreased that site use will inhibit or preclude planned future development;

  - Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

- The city’s plans for future construction and provision for public facilities and services; and
• The facilities and services already available to the area which will be affected by the proposed site use;

• Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in various areas of the city will not be adversely affected;

• Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;

• Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and

• Consider the smart planning principles set forth in Iowa Code Chapter 18B.

Based on Chapter Section 135-9.2.4 and 135-9.3.1.B of the Planning and Design Ordinance, Type 2 Design Alternatives are to be considered by the Plan and Zoning Commission after a public hearing whereby the following criteria are considered:

• The design alternative provisions of Section 135-9.2.4 are intended to authorize the granting of relief from strict compliance with the regulations of this chapter as part of the site plan or alternate design documentation review process when specific site features or characteristics of the subject property, including the presence of existing buildings, creates conditions that make strict compliance with applicable regulations impractical or undesirable. The design alternative provisions are also intended to recognize that alternative design solutions may result in equal or better implementation of the regulation’s intended purpose and greater consistency with the comprehensive plan.

• Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:

> An evaluation of the character of the surrounding neighborhood, such as:

  o Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and

  o Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);

• For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination will be based upon the assumption that such lots, as if
developed, comply with the applicable requirements of this chapter for which a design alternative(s) has been requested;

- The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;

- Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;

- Whether the requested design alternative(s) will have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare;

- Whether any adverse impacts resulting from the requested design alternative(s) will be mitigated to the maximum extent feasible; and

- Other factors determined relevant by the community development director, plan and zoning commission, or city council as applicable.

II. ADDITIONAL APPLICABLE INFORMATION

1. Design Standards: The applicant is seeking waiver of the 12% transparency requirement that requires windows on all street facing facades of a House B Building Type in a “N3a” Neighborhood District. The applicant is proposing no windows on the east (street side) facade of the dwelling, which is a 100% reduction in the code requirement. A Type 1 design alternative could be issued to allow 8.4% transparency (30% reduction of the required 12% transparency). This could be achieved by installation of 22.5 square feet transparency or the equivalent of a five foot by four-and-a-half foot window.

The applicant is also seeking relief of the major materials requirement in order to install 100% vinyl siding on the house without proposing any additional architectural elements to be granted a Type 1 design alternative. The applicant states that they are building to the market of the neighborhood and that the vinyl siding is appropriate for their target buyer.

2. Traffic and Circulations Standards: Section 135-8.5.2A of the Planning and Design Ordinance states “sidewalks are required as identified in the city’s transportation plan.”

Construction of the proposed house requires provision of a 5-foot wide sidewalk along the property’s street frontages. The applicant has requested waiver of this requirement since there is not any sidewalk in close proximity.

Closing gaps within the City’s sidewalk network is a priority of MoveDSM, which is the City’s transportation plan. The City Council also noted that this is priority at their
April 26, 2019 City Council Planning Session.

The grade contours along the adjoining streets would allow for sidewalk to be constructed in this area. While there is not any sidewalk in proximity to this property, Staff recommends that a 5-foot wide sidewalk be provided.

3. Street Trees: The applicant is requesting waiver of the requirement that one (1) street tree be provided per 30 lineal feet of frontage. Based on the property’s frontage dimensions, a total of five (5) street trees are required. The applicant is proposing only one (1) street tree. Staff recommends that the five (5) required street trees be provided.

III. STAFF RECOMMENDATION

Part A) Staff recommends denial of the requested Type 2 Design Alternatives to waive the transparency requirement. Staff would support a Type 1 design alternative to allow 8.4% transparency on the street side or east side of the house. This could be accomplished by installation of 22.5 square feet of transparency or the equivalent of a five foot by four-and-a-half foot window.

Part B) Staff recommends denial of the requested Type 2 Design Alternatives to waive the street tree requirements.

Part C) Staff recommends denial of the requested Type 2 Design Alternatives to waive the sidewalk requirements. The applicant does not face a practical difficulty in installing the sidewalk, as it is possible to construct a public sidewalk along its frontage. Closing gaps within the City’s sidewalk network is a priority of MoveDSM, the City’s transportation plan. It is understood that closing gaps often must be done incrementally and that new sections of sidewalk may not immediately connect to other sidewalk segments.

Part D) Staff recommends denial of the requested Type 2 Design Alternatives to waive the major materials requirement. Staff recommends that the applicant revisit their plans to add architectural elements to offset the 100% vinyl siding request.

SUMMARY OF DISCUSSION

Katherine Drahos presented staff report and recommendation.

Will Page asked if there are any other sidewalks in the immediate neighborhood.

Katherine Drahos stated they show a completed sidewalk along East Watrous Avenue and E. Leach on the north and south and some to the east on Marion Street.

Greg Wattier asked what type of materials are used on existing homes in the area.

Kyle Larson stated there is a mix of vinyl and fiber cement siding with no consistent pattern. These homes are older and likely have been resided over the years.
Greg Wattier asked the reasoning for not allowing vinyl siding if it is used in the area.

Jason Van Essen stated the material chart within the code does allow for vinyl siding but that no more than 65% of the front façade can consist of vinyl. The applicant is requesting to do 100% vinyl on the front façade.

Erik Lundy stated there would be some architectural options to allow for 100% of vinyl.

Jason Van Essen stated that would be providing a front porch of 60 square feet or larger.

Erik Lundy stated they could also provide gables, columns or other appropriate changes of pattern of materials.

Michael Madden 2504 48th Place, stated they are proposing to put in a 5-foot-wide, 4-foot-tall window on the street side facing SE 2nd to address the transparency issue. Regarding the street trees, they have proposed one in the front yard along E. Marion and not in the parking due to grade issues. They also didn’t propose street trees along SE 2nd due to the overhead power coming into the house and don’t want trees growing into those service lines. The grade along E. Marion makes it difficult to provide sidewalk and would price a lot of people out. They will also provide a 60-square foot front deck and a 20-foot-wide gable with vertical siding. Vinyl siding is easy to maintain and is very cost effective for an infill lot.

CHAIRPERSON OPENED THE PUBLIC HEARING

Rick Madden 2909 Grand Avenue, stated the house they are proposing will be a huge asset to the neighborhood. They are building what they know buyers want and need to be at a price point that make sense for a builder, appraiser and the buyer. He is troubled that the City has adopted a zoning code that forces them to seek relief on 80% of their infill builds, it’s very costly, time consuming and puts delays in their start times.

JB Conlin 3721 SW 61st Street, asked the commission to make the connection on where the house is being built and making it affordable.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Will Page stated he is sympathetic with the grade issues along East Marion and sees no other sidewalks in the immediate area. He believes it would be appropriate to waive the sidewalk requirements in this instance.

COMMISSION ACTION:

Greg Jones made a motion for:

Part A) APPROVAL of a Type 2 Design Alternatives to reduce the transparency requirement for the side street (east) façade allowing a 20-square foot window as presented by the applicant at the meeting.
Part B) **DENIAL** of a Type 2 Design Alternatives to waive the sidewalk requirements along SE 2nd Street and **APPROVAL** of a Type 2 Design Alternative to waive the sidewalk requirement along East Marion Street.

Part C) **DENIAL** of the requested Type 2 Design Alternatives to waive the street tree requirements.

Part D) **APPROVAL** of the requested Type 2 Design Alternatives to waive the major materials requirement.

**THE VOTE:** 14-0

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**Item 7**

Request from Nickolas Van Patten (owner) for review and approval of a Public Hearing Site Plan for the following Type 2 Design Alternative in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B, for property located at 6020 McKinley Avenue, to allow an 1,540-square foot addition to the existing house with waiver of the requirement for installation of public sidewalk along street frontages required per Section 135-8.5.2. (BLD2020-03181)

**STAFF REPORT TO THE PLANNING COMMISSION**

I. **GENERAL INFORMATION**

1. **Purpose of Request:** The applicant is constructing a 1,540-square foot addition to the existing one-household dwelling. The applicant is asking for waiver of the standard that requires them to construct a public sidewalk along McKinley Avenue. McKinley Avenue diverges from the original alignment based on the reconfiguration for the Waldinger headquarters project. Design alternative review criteria can be found in Section I, subparagraph 10 of this report. Staff analysis of the proposal can be found in Section II of the report.

2. **Size of Site:** 1.412 acres.

3. **Existing Zoning (site):** "RX1" Mixed Use District.

4. **Existing Land Use (site):** One Household dwelling.

5. **Adjacent Land Use and Zoning:**
North – “EX”; Use is Waldinger corporate headquarters and shop.
South – “EX”; Use is undeveloped land cultivated for row crop agriculture.
East – “RX1”; Uses are One Household dwellings.
West – “RX1”; Uses are One-Household dwellings.

6. General Neighborhood/Area Land Uses: The subject property is in a rural character area that consists primarily of One Household dwellings on acres surrounded by business park development and agricultural area.

7. Applicable Recognized Neighborhood(s): The subject property is in the Southwestern Hills Neighborhood. All neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agenda on January 29, 2021 and the Final Agenda on February 11, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on February 9, 2021 (10 days prior to the hearing) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested rezoning.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Southwestern Hills Neighborhood Association mailings were sent to George Davis, 3124 SW 29th Street, Des Moines, IA 50321.

8. Relevant Zoning History: The property was zoned to “RX1” Mixed Use District as part of the citywide Zoning Ordinance and Map update effective on December 16, 2019.


10. Applicable Regulations: Pursuant to Section 135-9.1.1.B of the Planning and Design Ordinance, the site plan review requirements of Chapter 135 are designed to ensure the orderly and harmonious development of property in a manner that shall:

- Promote the most beneficial relation between present and proposed future uses of land and the present and proposed future circulation of traffic throughout the city;

- Permit present development of property commensurate with fair and orderly planning for future development of other properties in the various areas of the city with respect to the availability and capacity, present and foreseeable, of public facilities and services. The factors to be considered in arriving at a conclusion concerning proposed present development of property shall include the following:
The maximum population density for the proposed development, the proposed density of use, and consideration of the effect the proposal will have on the capacity of existing water and sanitary sewer lines to the end that existing systems will not become overloaded or capacity so substantially decreased that site use will inhibit or preclude planned future development;

Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;
- The city’s plans for future construction and provision for public facilities and services; and
- The facilities and services already available to the area which will be affected by the proposed site use;
- Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in various areas of the city will not be adversely affected;
- Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;
- Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and
- Consider the smart planning principles set forth in Iowa Code Chapter 18B.

Based on Chapter Section 135-9.2.4 and 135-9.3.1.B of the Planning and Design Ordinance, Type 2 Design Alternatives are to be considered by the Plan and Zoning Commission after a public hearing whereby the following criteria are considered:

- The design alternative provisions of Section 135-9.2.4 are intended to authorize the granting of relief from strict compliance with the regulations of this chapter as part of the site plan or alternate design documentation review process when specific site features or characteristics of the subject property, including the presence of existing buildings, creates conditions that make strict compliance with applicable regulations impractical or undesirable. The design alternative provisions are also intended to recognize that alternative design solutions may result in equal or better implementation of the regulation’s intended purpose and greater consistency with the comprehensive plan.
- Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the
applicable request and independently of prior requests from the same applicant, and may include the following criteria:

- An evaluation of the character of the surrounding neighborhood, such as:
  - Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and
  - Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);

- For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination will be based upon the assumption that such lots, as if developed, comply with the applicable requirements of this chapter for which a design alternative(s) has been requested;

- The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;

- Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;

- Whether the requested design alternative(s) will have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare;

- Whether any adverse impacts resulting from the requested design alternative(s) will be mitigated to the maximum extent feasible; and

- Other factors determined relevant by the community development director, plan and zoning commission, or city council as applicable.

II. ADDITIONAL APPLICABLE INFORMATION

1. Traffic and Circulations Standards: Section 135-8.5.2.A of the Planning and Design Ordinance states “sidewalks are required as identified in the city’s transportation plan.”

2. Staff Analysis: The applicant proposes constructing a significant addition to the existing one household dwelling. This requires provision of a 5-foot wide sidewalk along the property’s street frontage. The applicant has requested waiver of this requirement since there are no sidewalks on the south side of this street.
Closing gaps within the City’s sidewalk network is a priority of MoveDSM, which is the City’s transportation plan. The City Council also noted that this is priority at their April 26, 2019 City Council Planning Session.

The grade contours along McKinley Avenue would allow for sidewalk to be installed along the south side of the recently constructed realigned cross section. While there is not any other sidewalk on the same side of the street as the subject property, Staff recommends that sidewalks be provided.

III. STAFF RECOMMENDATION

Staff recommends denial of the requested Type 2 Design Alternative to waive the sidewalk requirement. The applicant does not face practical obstacles to installing the sidewalk along the realigned segment of street in front of the house. Closing gaps within the City’s sidewalk network is a priority of MoveDSM, the City’s transportation plan. It is understood that closing gaps often must be done incrementally and that new sections of sidewalk may not immediately connect to other sidewalk segments.

SUMMARY OF DISCUSSION

Erik Lundy presented staff report and recommendation.

Dory Briles asked where the applicant would be required to place the sidewalk.

Erik Lundy stated it would be on the south side, along the curb line of the street.

Greg Jones asked how the sidewalk along SW McKinley will ever get put in unless the City does it.

Erik Lundy stated he wasn’t sure why it wasn’t installed with the street relocation project as MoveDSM would have been in place and would need to do more research.

Rocky Sposato asked if the sidewalk would align with a future sidewalk network?

Erik Lundy stated there are some questions in this area for future sidewalk connectivity.

Russ Bitterman 1440 Locust Street #100, representing ID8 Architects stated this is a strange situation not knowing where the right-of-way will be located at this point. 50% of the developed lots around this site have no sidewalks and adding a sidewalk would only create more gaps. Holding back the property owner from investing in their property over $8,000 is not practical nor desirable.

CHAIRPERSON OPENED THE PUBLIC HEARING

George Davis 3124 SW 29th Street, stated the Southwestern Hills neighborhood association is an agreement with the waiver as it would be the only sidewalk in the area.
CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Francis Boggus made a motion for approval of the requested Type 2 Design Alternative to waive the sidewalk requirement.

THE VOTE: 13-1 (Johnny Alcivar voted in opposition).

Item 8

Request from Orlando Domiguez (owner) for review and approval of a Public Hearing Site Plan for the following Type 2 Design Alternative in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B, for property located at 2925 4th Street, to allow a 390-square foot addition to the front of the existing House Type D within 11 feet of the west front property line that would have 10 feet less than the minimum required 21 foot average front yard setback required calculated per Section 135-2.16.3.A.3.

(BLD2020-03336)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a 390-square foot addition to the front of the existing dwelling. The addition would be within 11 feet of the west front property line. Therefore, the applicant is requesting waiver of the minimum required 21-foot front yard setback. Design alternative review criteria can be found in Section I, subparagraph 10 of this report. Staff analysis of the proposal can be found in Section II of the report.

2. Size of Site: 50 feet by 130 feet (6,500 square feet or 0.149 acres).

3. Existing Zoning (site): “N5” Neighborhood District.


5. Adjacent Land Use and Zoning:
   - North – “N5”; Use is a single-household dwelling.
   - South – “N5”; Use is a single-household dwelling.
   - East – “N5”; Use is a single-household dwelling.
   - West – “N5”; Use is a single-household dwelling.
6. **General Neighborhood/Area Land Uses:** The subject property is in a residential area that consists primarily of one- and two-household dwellings.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Highland Park Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on January 29, 2021, and by mailing of the Final Agenda on February 12, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on February 8, 2021 (10 days prior to the public hearing) to the Highland Park Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Highland Park Neighborhood mailings were sent to Ashley Kennebeck, 3818 7th Street, Des Moines, IA 50313.

8. **Relevant Zoning History:** N/A.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Low Density Residential.

10. **Applicable Regulations:** Pursuant to Section 135-9.1.1.B of the Planning and Design Ordinance, the site plan review requirements of Chapter 135 are designed to ensure the orderly and harmonious development of property in a manner that shall:

    - Promote the most beneficial relation between present and proposed future uses of land and the present and proposed future circulation of traffic throughout the city;

    - Permit present development of property commensurate with fair and orderly planning for future development of other properties in the various areas of the city with respect to the availability and capacity, present and foreseeable, of public facilities and services. The factors to be considered in arriving at a conclusion concerning proposed present development of property shall include the following:

      - The maximum population density for the proposed development, the proposed density of use, and consideration of the effect the proposal will have on the capacity of existing water and sanitary sewer lines to the end that existing systems will not become overloaded or capacity so substantially decreased that site use will inhibit or preclude planned future development;

      - Zoning restrictions at the time of the proposal;
• The city’s comprehensive plan;

• The city’s plans for future construction and provision for public facilities and services; and

• The facilities and services already available to the area which will be affected by the proposed site use;

• Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in various areas of the city will not be adversely affected;

• Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;

• Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and

• Consider the smart planning principles set forth in Iowa Code Chapter 18B.

Based on Chapter Section 135-9.2.4 and 135-9.3.1.B of the Planning and Design Ordinance, Type 2 Design Alternatives are to be considered by the Plan and Zoning Commission after a public hearing whereby the following criteria are considered:

• The design alternative provisions of Section 135-9.2.4 are intended to authorize the granting of relief from strict compliance with the regulations of this chapter as part of the site plan or alternate design documentation review process when specific site features or characteristics of the subject property, including the presence of existing buildings, creates conditions that make strict compliance with applicable regulations impractical or undesirable. The design alternative provisions are also intended to recognize that alternative design solutions may result in equal or better implementation of the regulation’s intended purpose and greater consistency with the comprehensive plan.

• Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:

  ➢ An evaluation of the character of the surrounding neighborhood, such as:

    o Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and
Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);

- For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination will be based upon the assumption that such lots, as if developed, comply with the applicable requirements of this chapter for which a design alternative(s) has been requested;

- The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;

- Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;

- Whether the requested design alternative(s) will have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare;

- Whether any adverse impacts resulting from the requested design alternative(s) will be mitigated to the maximum extent feasible; and

- Other factors determined relevant by the community development director, plan and zoning commission, or city council as applicable.

II. ADDITIONAL APPLICABLE INFORMATION

1. Staff Analysis: The applicant is proposing to construct a 390-square foot addition to the front of the existing single-household dwelling in order to add an additional bedroom and increase the living space for the family. The applicant cites COVID-19 isolation and on-line schooling as reasons for pursuing this addition, which will allow the whole family to have bedrooms on the main floor and also provide a dedicated area for online schooling. The decision of front façade would include a front facing gable roof form and a small covered porch. Staff believes that this design is in character with the surrounding homes within the Highland Park Neighborhood.

However, staff does not believe that the proposed 11-foot front yard setback is within the character of the surrounding area and would be inclined to support a 30% reduction to the minimum required 21-foot setback. This would allow the addition to be within 14.7 feet of the front property line.

III. STAFF RECOMMENDATION

Staff recommends denial of the requested Type 2 Design Alternative to allow an addition to be constructed within 11 feet of the front property line. However, staff would recommend approval of a revised request in order to allow construction of an addition
within 14.7 feet of the front property line (30% less than the otherwise required 21 feet). This would require the applicant to reduce the size of their addition.

**SUMMARY OF DISCUSSION**

Katherine Drahos presented staff report and recommendation.

Orlando Dominguez 2925 4th Street, stated they are trying to build this addition to make more room for his daughters now that they are older and need more privacy.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

No one requested to speak.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Greg Wattier asked if the staff recommendation is to increase the proposed setback from 11 feet to 14.7 feet.

Katherine Drahos stated that is correct.

Greg Wattier asked if the addition would then be 11.5 feet wide?

Kyle Larson stated they would need to reduce the addition by 3.7 feet to allow for the level of relief recommended by staff.

Will Page asked how the setback would affect the roof over the porch?

Jason Van Essen stated it would shorten up the extension so the porch area wouldn’t be as deep.

**COMMISSION ACTION:**

Will Page made a motion for approval of the revised request to allow construction of an addition within 14.7 feet of the front property line (30% less than the otherwise required 21 feet) with a design approved by the Planning and Urban Design Administrator.

**THE VOTE:** 14-0

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*(Jann Freed left at 8:10pm)*

Item 9
Request from Casey’s Marketing Company (developer) represented by Erik Nikkel for review and approval of a Public Hearing Site Plan “Casey’s General Store, 3121 Forest Avenue” for the following Type 2 Design Alternatives and denied Type 1 Design Alternatives in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B, for property located at 3121 Forest Avenue to allow development of a 3,588-square foot Commercial Cottage Building Type for Retail Sales, Limited use. The subject property is owned by Neighborhood Development Corporation. (10-2021-7.39)

A) Allow a Commercial Cottage Type building that is 26 feet over the 60-foot maximum width required per Section 135-2.6.3.A.2.
B) Allow a total of 15,603 square feet of impervious surface (85%) which is 3,669 square feet (20%) over the 11,934-square foot (65%) maximum allowed per Section 135-2.6.3.A.7.
C) Allow waiver of the required stormwater management improvements per Section 135-8.3.2.
D) Allow an access drive tandem to the north/south alley from Forest Avenue where only a single access drive is permitted from a non-primary street with an unimproved alley per Section 135-2.6.3.A.9. (denied Type 1)
E) Allow waiver of a required 7’ landscaping setback- fence frontage buffer along Forest Avenue south of the loading are where required per Section 135-7.7.2 and Figure 135-7.7-A. (denied Type 1)
F) Allow waiver of the required interior lot landscape island at the east terminal end of the on-site parking spaces adjacent to the building per Section 135-7.9.2.A.1. (denied Type 1)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed site plan would allow construction of 3,588-square foot Commercial Cottage building type for a Retail Sales, Limited use. The Site Plan would also allow construction of an on-site parking lot containing 16 parking spaces to the north of the building within the rear yard area.

2. Size of Site: 18,359 square feet (0.421 acres).


4. Existing Land Use (site): The subject property contains an existing 2,691-square foot building with a Vehicle Maintenance/Repair, Minor use

5. Adjacent Land Use and Zoning:

    North – “N5”, Uses are one-household living dwellings.

    South – “RX1”, Use is surface parking lot, non-accessory.

    East – “MX1”, Use is an 8-unit multiple household living dwelling.
West – “RX1”, Uses are multiple household living dwellings.

6. General Neighborhood/Area Land Uses: The subject property is located along Forest Avenue in a mixed-use area west of the Drake University Campus.

7. Applicable Recognized Neighborhood(s): The subject property is in the Drake Neighborhood. All neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agenda on January 29, 2021 and the Final Agenda on February 11, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on February 9, 2021 (10 days prior to the hearing) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested rezoning.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Drake Neighborhood mailings were sent to Lori Calhoun, 2808 Cottage Grove Avenue, Des Moines, IA 50311.

8. Relevant Zoning History: On November 9, 2020, the City Council adopted Ordinance No. 15,941 to rezone the property from “MX1” Mixed Use District to Limited “MX3” Mixed Use District subject to the following conditions:

A) The only Permitted and Conditional Uses on the Property shall be sales of packaged alcoholic liquor following and subject to approval of a Conditional Use by the Zoning Board of Adjustment, and those Permitted and Conditional Uses in common with and as limited by the MX1 Mixed Use District.

B) Accessory structures located on the Property shall be limited to those permitted in the MX1 Mixed Use District in accordance with Des Moines Municipal Code Chapter 135, Table 135-2.22-1.

On November 18, 2020, the Zoning Board of Adjustment approved a Conditional Use for the property to allow the sale of liquor, wine and beer, subject to the following conditions.

A) The sale of alcoholic liquor, wine and/or beer shall only be ancillary to a “Retail Sales, Limited” use, where no more than 40% of gross receipts from sales on the premises may be derived from the sale of alcoholic liquor, wine, beer and/or tobacco products.

B) The business selling alcoholic liquor, wine and/or beer shall operate in accordance with the necessary permit or license obtained through the Office of the City Clerk as approved by the City Council.

C) The business selling alcoholic liquor shall only display liquor in a locked case or behind a counter accessible only to employees, employ an electronic security cap or tag system on all containers of alcoholic liquor on display, or have more than one employee on duty at all times the business is open to the public.
D) The business shall conspicuously post 24-hour contact information for a manager or owner of the business near the main public entrance.

E) The business shall institute a strict no loitering policy, conspicuously post one or more "No Loitering" signs, and cooperate with police in addressing loitering on the premises.

F) The business shall not dispense alcoholic beverages from a drive-through window.

G) Litter and trash receptacles shall be located at convenient locations inside and outside the premises, and operators of the business shall remove all trash and debris from the premises and adjoining public areas on a daily basis.

H) Parking areas provided for the use of customers of the business shall be illuminated at an intensity of at least one footcandle of light on the parking surface at all times. The entire site shall be landscaped and illuminated so as to minimize hiding places for possible criminal activity.

I) Any construction on the site shall be in compliance with all applicable Building and Fire codes, with issuance of all necessary permits by the Permit and Development Center.

J) If the Zoning Enforcement Officer determines at any time that the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions set forth in the Conditional Use or the requirements contained in City Code Section 134-3.8.1, the Zoning Enforcement Officer may apply to the Board to reconsider the issuance of the Conditional Use.

9. **PlanDSM Future Land Use Plan Designation:** Community Mixed Use.

10. **Applicable Regulations:** Pursuant to Section 135-9.1.1.B of the Planning and Design Ordinance, the site plan review requirements of Chapter 135 are designed to ensure the orderly and harmonious development of property in a manner that shall:

- Promote the most beneficial relation between present and proposed future uses of land and the present and proposed future circulation of traffic throughout the city;

- Permit present development of property commensurate with fair and orderly planning for future development of other properties in the various areas of the city with respect to the availability and capacity, present and foreseeable, of public facilities and services. The factors to be considered in arriving at a conclusion concerning proposed present development of property shall include the following:
- The maximum population density for the proposed development, the proposed density of use, and consideration of the effect the proposal will have on the capacity of existing water and sanitary sewer lines to the end that existing systems will not become overloaded or capacity so substantially decreased that site use will inhibit or preclude planned future development;

- Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

- The city's plans for future construction and provision for public facilities and services; and

- The facilities and services already available to the area which will be affected by the proposed site use;

- Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in various areas of the city will not be adversely affected;

- Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;

- Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and

- Consider the smart planning principles set forth in Iowa Code Chapter 18B.

Based on Chapter Section 135-9.2.4 and 135-9.3.1.B of the Planning and Design Ordinance, Type 2 Design Alternatives are to be considered by the Plan and Zoning Commission after a public hearing whereby the following criteria are considered:

- The design alternative provisions of Section 135-9.2.4 are intended to authorize the granting of relief from strict compliance with the regulations of this chapter as part of the site plan or alternate design documentation review process when specific site features or characteristics of the subject property, including the presence of existing buildings, creates conditions that make strict compliance with applicable regulations impractical or undesirable. The design alternative provisions are also intended to recognize that alternative design solutions may result in equal or better implementation of the regulation's intended purpose and greater consistency with the comprehensive plan.

- Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the
applicable request and independently of prior requests from the same applicant, and may include the following criteria:

- An evaluation of the character of the surrounding neighborhood, such as:
  - Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and
  - Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);

- For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination will be based upon the assumption that such lots, as if developed, comply with the applicable requirements of this chapter for which a design alternative(s) has been requested;

- The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;

- Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;

- Whether the requested design alternative(s) will have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare;

- Whether any adverse impacts resulting from the requested design alternative(s) will be mitigated to the maximum extent feasible; and

- Other factors determined relevant by the community development director, plan and zoning commission, or city council as applicable.

II. ADDITIONAL INFORMATION

1. Design Alternatives Requested: The following Design Alternatives are requested either Type 2 or denied Type 1 as denoted.

   A) Allow a Commercial Cottage Type building that is 26 feet over the 60-foot maximum width required per Section 135-2.6.3.A.2. This would permit a slightly larger building width along Forest Avenue to allow on-site parking enough depth of the site to double-load off the drive aisle.

   B) Allow a total of 15,603 square feet of impervious surface (85%) which is 3,669 square feet (20%) over the 11,934-square foot (65%) maximum allowed per
Section 135-2.6.3.A.7. The developer has indicated that they have attempted to reduce the impervious to maximum extent possible. Engineering Staff have indicated in the review of the Site Plan that if the impervious surface cannot be reduced to 75% or less for the site, then they would not consider administrative waiver of the stormwater management requirements. The proposed site development would result in a net decrease of impervious surface relative to the existing condition. However, with new site construction, Engineering Staff review the stormwater management requirements based on it being new construction on an undeveloped site.

C) Allow waiver of the required stormwater management improvements per Section 135-8.3.2. Due to the proposed impervious surface exceeding 75% the Engineering review staff did not consider any administrative waiver of the stormwater management requirements.

D) Allow an access drive tandem to the north/south alley from Forest Avenue where only a single access drive is permitted from a non-primary street with an unimproved alley per Section 135-2.6.3.A.9. (denied Type 1). The developer is requesting this to allow a wider drive entrance onto Forest Avenue for on-site circulation of semi-trucks that would service the store.

E) Allow waiver of a required 7’ landscaping setback- fence frontage buffer along Forest Avenue south of the loading area where required per Section 135-7.7.2 and Figure 135-7.7-A. (denied Type 1) The developer is seeking to remove the impediments to on-site maneuvering of semi-trucks. The required tree and decorative fencing would potentially impair this circulation.

F) Allow waiver of the required interior lot landscape island at the east terminal end of the on-site parking spaces adjacent to the building per Section 135-7.9.2.A.1. (denied Type 1) The developer is seeking to remove the impediments to on-site maneuvering of semi-trucks. The required tree and decorative fencing would potentially impair this circulation.

2. Staff Rationale: Staff is supportive of the Design Alternative requested in Part A to allow the building width to exceed the maximum for a Commercial Cottage Building Type. If the building width were reduced, then the building depth would need increased in order to provide the needs building size. This would then eliminate the ability to have double-loaded parking in the rear yard.

Staff believes that there is ability to reduce the amount of impervious surface by providing the required landscaping necessary, narrowing drive widths and possibly eliminating on-site parking spaces. The Traffic Engineering Division did not believe templates for semi-truck maneuvering were sufficiently accommodated with the site as proposed, suggesting that the site would likely need to be served with a smaller truck size. Therefore, staff would not be supportive of the Design Alternatives requested in Parts B, D, E and F.
Should the Commission seek to grant waiver of the maximum impervious surface, then based on Engineering Staff recommendation the Commission should require the provision of storm water management per Chapter 135 Section 135-8.3.2.A. In that instance staff would not be supportive of the Design Alternative in Part C.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Design Alternative in Part A to allow a Commercial Cottage Type building that is 26 feet over the 60-foot maximum width required per Section 135-2.6.3.A.2.

Staff recommends denial of the requested Design Alternatives in Parts B, D, E and F, to allow a total of 15,603 square feet of impervious surface (85%) which is 3,669 square feet (20%) over the 11,934-square foot (65%) maximum allowed per Section 135-2.6.3.A.7; allow an access drive tandem to the north/south alley from Forest Avenue where only a single access drive is permitted from a non-primary street with an unimproved alley per Section 135-2.6.3.A.9; allow waiver of a required 7' landscaping setback- fence frontage buffer along Forest Avenue south of the loading are where required per Section 135-7.7.2 and Figure 135-7.7-A; and allow waiver of the required interior lot landscape island at the east terminal end of the on-site parking spaces adjacent to the building per Section 135-7.9.2.A.1.

Should the Commission deny the Design Alternative in Part B, then Staff would recommend approval of the Design Alternative in Part C allowing waiver of the stormwater detention requirement.

Should the Commission approve the Design Alternative in Part B, to allow a total of 15,603 square feet of impervious surface (85%), which is 3,669 square feet (20%) over the 11,934-square foot (65%) maximum allowed per Section 135-2.6.3.A.7; then Staff recommends denial of the requested Design Alternative in Part C to allow waiver of the required stormwater management improvements per Section 135-8.3.2.

SUMMARY OF DISCUSSION

Erik Lundy presented staff report and recommendation.

Johnny Alcivar asked if the existing site is 100% impervious right now?

Erik Lundy stated currently its nearly 100% impervious.

Abby Chungath asked for calcification on the minimum and maximum parking requirements for the project.

Erik Lundy stated they are proposing to exceed the minimum parking requirements and would still comply with the requirements if they were to remove a couple of spaces.

Greg Wattier asked if there is street parking on Forest Avenue?
Erik Lundy stated yes but there are some limitations on Forest in the afternoon and no parking to the East.

Wally Pelds 2323 Dixon Street, representing Pelds Design Services, stated they have added street tree planters to match the sidewalk and street tree layout to the west. Green space will be added along 32nd Street where today it is all gravel. Storm water detention was tricky to figure out with no outlet within a couple blocks in each direction. Since they’re not able to meet the green space requirement, they’re happy to install the underground chamber system that will give a recharge underground. They have asked for additional stalls for days the store will have more employees on site. The delivery trucks that Casey’s uses forces him to locate the entrance to the south, which is 36-foot wide if you include the 14-foot alley. They have also added some landscaping to the east in an effort to give the property as much green space as they can.

Greg Wattier stated we should be looking for different ways to sever these urban stores with something different than a semi trying to maneuver around a parking lot.

Wally Pelds stated they currently don’t have anything in their fleet of truck other than semis. On street loading was considered but was not allowed by the Traffic and Transportation Department.

Greg Wattier asked if they will have an outdoor seating area?

Wally Pelds stated there isn’t any outdoor seating at this site.

Johnny Alcivar asked is there a need for the 5 extra parking spaces?

Wally Pelds stated that was something that came from Casey’s operations and how they feel this new prototype store will do. They have shown the need for additional parking from day one and knew it would be a challenge with this site.

CHAIRPERSON OPENED THE PUBLIC HEARING

Erik Nikkel 3305 SE Delaware Avenue, Ankeny, IA, representing Casey’s General Store, stated on busy unloading days, they will eat up half of their parking with the number of employees on site. During the neighborhood meetings they were asking if additional parking could be added. You might be able to walk in the summer months but in the winter, there will be more car traffic.

Abbey Gilroy 2331 University Avenue, representing NDC stated they want to see this type of investment in the neighborhood and the neighbors are very excited to have this market in their area. Parking was a main concern with the neighbors as this area is very congested so they wanted to maximize the onsite parking.

CHAIRPERSON CLOSED THE PUBLIC HEARING
Greg Jones stated he is inclined to approve the revised design Casey’s presented but wasn’t sure what type of relief the new concept would need. Asked staff to explain condition F in the staff report.

Erik Lundy stated it would normally be a full-size tree planting and what they have proposed wouldn’t meet the end cap landscape island requirements.

Johnny Alcivar asked if they are concerned with the trucks destroying the planter that is proposed?

Erik Lundy stated that is correct. They have proposed turf to add absorption. That condition would need to be waived by the commission as the proposal doesn’t meet the end cap requirements.

Jason Van Essen stated if it makes it easier for the commission to make a motion for what’s proposed, they could add “granting the relief needed to approve the design as presented at tonight’s hearing” to the motion.

**COMMISSION ACTION:**

Greg Jones made a motion for **APPROVAL** of the Design Alternative relief necessary to approve the site concept presented at the hearing by the applicant. *(see presented concept below)*

![Design Concept](image)

**THE VOTE:** 13-0
Item 10

Request from P&A Investments, LLC (purchaser) represented by Sara Hopkins (officer) for review and approval of a Public Hearing Site Plan “Hopkins Development” for the following Type 2 Design Alternatives and denied Type 1 Design Alternatives in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B, for property located at 3720 6th Avenue, to allow renovations to the existing Storefront Type building triggering compliance with Site Plan review. Contract Buyer of Record is RS Intl, LLC. Titleholder of Record is S&D Enterprises, LLC. (10-2021-7.43)

A) Waiver of 5 less than the minimum required 5 on-site parking spaces per Section 135-6.4.2.A and Table 135-6.4-1. (denied Type 1)

B) Waiver of 1 bike rack less than the 1 bike rack required per Section 135-6.3.1 and Table 135-6.3-1. (denied Type 1)

C) Waiver of all required site trees at a minimum 15% canopy coverage per Section 135-7.4.1. (denied Type 1)

D) Waiver of all required streetscape including full pavement with tree beds to include Class A sidewalk with 2 tree beds required along 6th Avenue and 2 tree beds required along Douglas Avenue per Section 135-7.5.3.C and Section 135-7.6.3.B. (denied Type 1)

E) Waiver of undergrounding of utilities requesting to maintain overhead lines in the Rights-Of-Way (ROW) per Section 135-9.2.1.E.

F) Waiver of required screening of roof top mechanical equipment screening from the west per Section 135-4.5.5.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to renovate the existing building and is required to prepare a site plan for review as a result. Design alternative review criteria can be found in Section I, subparagraph 10 of this report. Staff analysis of the proposal can be found in Section II of the report.

2. Size of Site: 2,500 square feet (0.057 acres).


4. Existing Land Use (site): The site contains a one-story commercial building.

5. Adjacent Land Use and Zoning:
**North** – “MX1”; Use is a multiple tenant commercial building.

**South** – “MX1”; Use is a multiple tenant commercial building.

**East** – “RX1” & “DX2”; Use is a multiple-household residential building.

**West** – “N5”; Use is a one-household dwelling.

6. **General Neighborhood/Area Land Uses:** The subject property is located on the southwest corner of the 6th Avenue and Douglas Avenue intersection at the north end of a neighborhood commercial district.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Oak Park Neighborhood and within 250 feet of the Highland Park Neighborhood. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on January 29, 2021 and the Final Agenda on February 12, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on January 29, 2021 (20 days prior to the hearing) and February 8, 2021 (10 days prior to the hearing) to the Neighborhood Associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Oak Park Neighborhood and the Highland Park Neighborhood currently have the same contact person. The mailings for both neighborhood associations were sent to Ashley Kennebeck, 3818 7th Street, Des Moines, IA 50313.

8. **Relevant Zoning History:** None.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Neighborhood Mixed Use within a Neighborhood Node.

10. **Applicable Regulations:** Pursuant to Section 135-9.1.1.B of the Planning and Design Ordinance, the site plan review requirements of Chapter 135 are designed to ensure the orderly and harmonious development of property in a manner that shall:

    - Promote the most beneficial relation between present and proposed future uses of land and the present and proposed future circulation of traffic throughout the city;

    - Permit present development of property commensurate with fair and orderly planning for future development of other properties in the various areas of the city with respect to the availability and capacity, present and foreseeable, of public facilities and services. The factors to be considered in arriving at a conclusion concerning proposed present development of property shall
include the following:

- The maximum population density for the proposed development, the proposed density of use, and consideration of the effect the proposal will have on the capacity of existing water and sanitary sewer lines to the end that existing systems will not become overloaded or capacity so substantially decreased that site use will inhibit or preclude planned future development;

- Zoning restrictions at the time of the proposal;

  - The city’s comprehensive plan;
  
  - The city’s plans for future construction and provision for public facilities and services; and
  
  - The facilities and services already available to the area which will be affected by the proposed site use;
  
  - Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in various areas of the city will not be adversely affected;
  
  - Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;
  
  - Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and
  
  - Consider the smart planning principles set forth in Iowa Code Chapter 18B.

Based on Chapter Section 135-9.2.4 and 135-9.3.1.B of the Planning and Design Ordinance, Type 2 Design Alternatives are to be considered by the Plan and Zoning Commission after a public hearing whereby the following criteria are considered:

- The design alternative provisions of Section 135-9.2.4 are intended to authorize the granting of relief from strict compliance with the regulations of this chapter as part of the site plan or alternate design documentation review process when specific site features or characteristics of the subject property, including the presence of existing buildings, creates conditions that make strict compliance with applicable regulations impractical or undesirable. The design alternative provisions are also intended to recognize that alternative design solutions may result in equal or better implementation of the regulation’s intended purpose and greater consistency with the comprehensive plan.
• Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:

  ➢ An evaluation of the character of the surrounding neighborhood, such as:
    
    o Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and
    
    o Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);

• For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination will be based upon the assumption that such lots, as if developed, comply with the applicable requirements of this chapter for which a design alternative(s) has been requested;

  ➢ The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;

  ➢ Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;

  ➢ Whether the requested design alternative(s) will have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare;

  ➢ Whether any adverse impacts resulting from the requested design alternative(s) will be mitigated to the maximum extent feasible; and

  ➢ Other factors determined relevant by the community development director, plan and zoning commission, or city council as applicable.

II. ADDITIONAL APPLICABLE INFORMATION

1. Parking: Article 6 of the Planning and Design Ordinance requires provision of five (5) off-street parking spaces and one (1) bike rack for the proposed office use. The building occupies the entire site so there is no opportunity for on-site parking. However, Staff believes there is an opportunity for the applicant to obtain a shared parking arrangement from a neighboring property and for the bike rack to be installed in the Right-of-Way. Therefore, Staff recommends that the Commission waive the on-site parking requirement subject to the applicant seeking a shared parking agreement with a nearby property owner. Staff believes this solution would
meet the intent of Chapter 135 while providing needed flexibility. Staff recommends that the Commission deny the request to waive the bike rack requirement.

2. **Site Elements:** Article 7 of the Planning and Design Ordinance requires the provision of Class A sidewalks with street trees along 6th Avenue and Douglas Avenue. In addition, it requires that enough trees be planted so that 15% of the site is covered by tree canopy. Staff believes that street trees should be provided along both streets and that these trees would provide an adequate amount of canopy to satisfy the tree canopy requirement. Staff supports waiving the requirement for a Class A walk along Douglas Avenue since the character of the area quickly transitions to residential as you move west. Staff believes that a Class A walk should be provided along 6th Avenue given the commercial uses to the north and south of the site, and the pedestrian character of this commercial district.

3. **Mechanical Equipment Screening:** Section 135-4.5.5 of the Planning and Design Ordinance requires the screening of rooftop mechanical equipment on all sides with architectural-quality materials. The building has parapet walls that screen the existing equipment except on the west side of the building. The applicant is requesting a Type 2 Design Alternative to waive this requirement. The intent of Chapter 135 is for non-conforming situations to be brought up to current standards as investments in the property are made. The equipment is visible from Douglas Avenue as you approach the property from the west. Staff recommends denial of this requested Design Alternative.

4. **Overhead Utilities and Service Lines:** Section 135-9.2.1.E of the Planning and Design Ordinance requires all electrical, telephone, and cable television transmission systems shall be placed underground whenever reasonably practical. The applicant has indicated that they received an estimate of $30,000 to underground the overhead lines that run along Douglas Avenue as well as the service line to their building. Staff is not aware of the total budget for the project to be able to determine magnitude of the cost. In addition, the estimate is not broken down, so Staff is not able to determine how much of the total cost is associated with the overhead lines as opposed to the service line to the building. Staff will contact the applicant to see if this information can be provided prior to the meeting.

III. **STAFF RECOMMENDATION**

Part A) Staff recommends approval of the Type 1 Design Alternative to waive the minimum required on-site parking requirements subject to the provision of a shared parking agreement for off-site parking to the satisfaction of the Planning and Urban Design Administrator.

Part B) Staff recommends denial of the Type 1 Design Alternative to waive the minimum bike parking requirement.

Part C) Staff recommends denial of the Type 1 Design Alternative to waive the minimum tree canopy requirement.
Part D) Staff recommends denial of the Type 2 Design Alternative to waive the Class A sidewalk and street tree requirement as requested. However, staff recommends approval of a Type 2 Design Alternative to waive the Class A sidewalk requirement along Douglas Avenue.

Part E) Staff recommends denial of the Type 2 Design Alternative to waive the undergrounding of utilities requirement unless the applicant is able to demonstrate to the satisfaction of the Plan and Zoning Commission that doing so is not reasonably practical.

Part F) Staff recommends denial of the Type 2 Design Alternative to waive the roof top mechanical equipment screening requirement for the west side of the existing equipment.

**SUMMARY OF DISCUSSION**

*Jason Van Essen* presented staff report and recommendation.

*Rocky Sposato* asked for clarification on how many trees City’ staff would like to see along 6th Avenue?

*Jason Van Essen* stated he would recommend 2 trees. If they need to use a different tree species to react to the architecture of the building or maybe shift the trees around in the planting beds, that is something we could work with the applicant on.

*Johnny Alcivar* asked if parts A, B and C no longer needed to be considered?

*Jason Van Essen* stated they need to hear from the applicant on part A. Part B could be struck. On part C they are proposing to do 1 tree. Relief is needed as 2 trees are required along each street. If the overhead utilities are not undergrounded along Douglas Avenue, then only 1 ornamental tree could be planted in that right-of-way due to utility conflicts.

*Eric Cannon* 2727 SW Snyder Boulevard, Ankeny, Iowa, representing Snyder and Associates, stated this is a remodel project, not new construction so it does change the characteristics of the proposed project, the budget and feasibility of it. They didn’t have any surrounding owners commit to sharing parking spaces from a leasing standpoint. They do have on-street parking along 6th Avenue, as well on the north side of Douglas Avenue. He believes the canopy requirement would be met by a single street tree. Noted a tree near the corner would be within the vision clearance triangle. The effort to underground the utilities has 3 components that include overhead power lines along Douglas, the exiting wood pole and street light fixture along Douglas and the overhead electric from the pole to the building. This would take up 16% of the budget and make it unfeasible for a developer. Also, the cost to screen rooftop mechanicals is prohibitive to the project, given the existing condition, character of the neighborhood, they would request this to be waived as well.

*Sara Hopkins* presented a power point presentation to the commission.
CHAIRPERSON OPENED THE PUBLIC HEARING

Abbey Gilroy, 2331 University Avenue, representing the Neighborhood Development Corporation (NDC), stated they have spent a lot of time and funding along with the City of Des Moines and InvestDSM on the 6th Avenue corridor. They are excited to see small businesses looking in this neighborhood to help revitalize the area and fill these store fronts. Hopefully, we can all come to an agreement tonight and see Sara’s project come to fruition.

Dean Meester, 621 Douglas Avenue, stated he fully supports the waiver for the onsite parking requirement as there is plenty of on-street parking in the neighborhood. Undergrounding utilities should be waived as it’s an unreasonable cost for this project. He can see the rooftop mechanicals from his house, has no desire seeing her spend $12,000 to screen the mechanicals and supports that waiver as well.

JB Conlin stated he would really love to see this property redeveloped and there is nothing better than a real estate office on this side of town that would help with the revitalization efforts.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Francis Boggus stated this project should be applauded as it is helping to revitalize a commercial district in an urban neighborhood. He believes the feasibility of these types of projects and what they bring to the neighborhood should be taken into consideration. He would support the waivers asked for tonight.

Will Page asked if the motion includes the waiver of undergrounding of utilities?

Francis Boggus stated that is correct.

Jason Van Essen asked Francis to clarify if he wants a minimum of 1 or 2 trees in the motion?

Francis Boggus stated let’s go with 1 tree and see how the vote goes.

Greg Jones asked what that applicant is now requesting be waved in part D of the item.

Jason Van Essen stated the Class A sidewalk and street tree along Douglas Avenue and 1 less tree than the required 2 trees along 6th Avenue.

Greg Jones stated he would be opposed to the motion if the commission doesn’t ask for a tree along Douglas.

Jason Van Essen stated if undergrounding the utilities are waived, we would only have space for 1 ornamental tree along Douglas Avenue.
Johnny Alcivar stated he would agree with 2 trees, whether its 2 trees along 6th Avenue, or 1 overstory tree on 6th Avenue and 1 ornamental tree along Douglas.

**COMMISSION ACTION:**

Francis Boggus made a motion for:

- Part A) **APPROVAL** of a Design Alternative to waive the minimum required on-site parking requirements.
- Part B) *This request was withdrawn by the applicant.*
- Part C) *This request was withdrawn by the applicant.*
- Part D) **APPROVAL** of a Design Alternative to waive the Class A sidewalk requirement along Douglas Avenue. **APPROVAL** of an amended Design Alternative request to reduce the total number of street trees required to two (2) trees. *The request to waive the Class A sidewalk requirement along 6th Avenue was withdrawn by the applicant.*
- Part E) **APPROVAL** of a Design Alternative to waive the undergrounding of overhead utility and service lines requirement.
- Part F) **APPROVAL** of a Design Alternative to waive the roof top mechanical equipment screening requirement for the west side of the existing equipment.

**THE VOTE:** 13-0

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**Item 11**

Request from RM Madden Construction, Inc. (owner) represented by Michael Madden (officer) for review and approval of a Public Hearing Site Plan for the following Type 2 Design Alternatives in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B, for property located at 1124 Herold Avenue, to allow construction of a new House Type D in an “N5” Neighborhood District. (BLD2021-00065)

- A) Allow an attached garage with entrance location on the front façade where only allowed on the side or rear façade, per 135-2.16.3.A.10.
- B) Waive the requirement for installation of public sidewalk along street frontages required, per Section 135-8.5.2.

**STAFF REPORT TO THE PLANNING COMMISSION**
I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct an 1,124-square foot single-household dwelling with a 465-square foot attached garage that would have a garage entrance on the front façade of the dwelling. The proposed garage would project 13 feet from the proposed front porch. The applicant is asking for waiver of the standard that requires the entrance to any attached garage on a House D Building Type to be on the side or rear façade instead of the front façade. The applicant is also asking for waiver of the standard that requires them to construct a public sidewalk along Herold Avenue. Design alternative review criteria can be found in Section I, subparagraph 10 of this report. Staff analysis of the proposal can be found in Section II of the report.

2. Size of Site: 53 feet by 173 feet (9,169 square feet or 0.21 acres)

3. Existing Zoning (site): “N5” Neighborhood District.

4. Existing Land Use (site): Undeveloped lot.

5. Adjacent Land Use and Zoning:
   - North – “N5”; Use is a single-household dwelling.
   - South – “N5”; Use is a single-household dwelling.
   - East – “N5”; Use is a single-household dwelling.
   - West – “N5”; Use is a single-household dwelling.

6. General Neighborhood/Area Land Uses: The subject property is in a residential area that consists primarily of one- and two-household dwellings.

7. Applicable Recognized Neighborhood(s): The subject property is in the Watrous South Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on January 29, 2021 and by mailing of the Final Agenda on February 12, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on February 8, 2021 (10 days prior to the public hearing) to the Watrous South Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

   All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Watrous South Neighborhood mailings were sent to James Spiller, PO Box 35845, Des Moines, IA 50315.

8. Relevant Zoning History: N/A.

10. **Applicable Regulations:** Pursuant to Section 135-9.1.1.B of the Planning and Design Ordinance, the site plan review requirements of Chapter 135 are designed to ensure the orderly and harmonious development of property in a manner that shall:

- Promote the most beneficial relation between present and proposed future uses of land and the present and proposed future circulation of traffic throughout the city;

- Permit present development of property commensurate with fair and orderly planning for future development of other properties in the various areas of the city with respect to the availability and capacity, present and foreseeable, of public facilities and services. The factors to be considered in arriving at a conclusion concerning proposed present development of property shall include the following:

  - The maximum population density for the proposed development, the proposed density of use, and consideration of the effect the proposal will have on the capacity of existing water and sanitary sewer lines to the end that existing systems will not become overloaded or capacity so substantially decreased that site use will inhibit or preclude planned future development;

  - Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

- The city’s plans for future construction and provision for public facilities and services; and

- The facilities and services already available to the area which will be affected by the proposed site use;

- Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in various areas of the city will not be adversely affected;

- Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;

- Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and

- Consider the smart planning principles set forth in Iowa Code Chapter 18B.
Based on Chapter Section 135-9.2.4 and 135-9.3.1.B of the Planning and Design Ordinance, Type 2 Design Alternatives are to be considered by the Plan and Zoning Commission after a public hearing whereby the following criteria are considered:

- The design alternative provisions of Section 135-9.2.4 are intended to authorize the granting of relief from strict compliance with the regulations of this chapter as part of the site plan or alternate design documentation review process when specific site features or characteristics of the subject property, including the presence of existing buildings, creates conditions that make strict compliance with applicable regulations impractical or undesirable. The design alternative provisions are also intended to recognize that alternative design solutions may result in equal or better implementation of the regulation’s intended purpose and greater consistency with the comprehensive plan.

- Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:
  - An evaluation of the character of the surrounding neighborhood, such as:
    - Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and
    - Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);
  - For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination will be based upon the assumption that such lots, as if developed, comply with the applicable requirements of this chapter for which a design alternative(s) has been requested;
  - The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;
  - Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;
  - Whether the requested design alternative(s) will have a substantial or undue adverse effect upon adjacent: property, the character of the surrounding area or the public health, safety and general welfare;
- Whether any adverse impacts resulting from the requested design alternative(s) will be mitigated to the maximum extent feasible; and
- Other factors determined relevant by the community development director, plan and zoning commission, or city council as applicable.

II. ADDITIONAL APPLICABLE INFORMATION

1. Garage Placement: The applicant is proposing to construct an 1,124-square foot single-household dwelling with a 465-square foot attached garage that would have a garage entrance on the front façade of the dwelling. The proposed garage would project 13 feet from the proposed front porch.

The subject property is zoned “N5” Neighborhood District, which requires any one-household dwelling to be constructed in accordance with the House D Building Type. This building type requires the entrance to any attached garage to be located on either the side or rear façade, and not on the front façade as proposed.

Staff has noted that the 67 one- and two-household dwellings that are located on either side of either side of Herold Avenue between Southwest 14th Street to the west to Southwest 9th Street to the east are an eclectic mix of architectural designs, including bungalows, cottages, and ranch designs. Of the 67 dwellings, 7 dwellings have attached garages with the garage entrance on the front façade. However, none of these have garages that project more than a few feet in front of the entrance façade or front porch. Staff does not believe that the proposed design, on which the garage would project 13 feet from the front porch, is compatible with the character of the surrounding area. If the Commission determines that it is appropriate to allow a garage entrance on the front façade, Staff believe such approval should be conditioned upon allowing the garage to project no more than 3 feet from the entrance façade or a covered porch.

2. Sidewalk Analysis: Section 135-8.5.2A of the Planning and Design Ordinance states “sidewalks are required as identified in the city’s transportation plan.”

Construction of the proposed house requires provision of a 5-foot wide sidewalk along the property’s 53 feet of street frontage. The applicant has requested waiver of this requirement since there is not any sidewalk on either side of Herold Avenue from Southwest 14th Street to the west to Southwest 9th Street to the east.

Closing gaps within the City’s sidewalk network is a priority of MoveDSM, which is the City’s transportation plan. The City Council also noted that this is priority at their April 26, 2019 City Council Planning Session.

The grade contours along Herald Avenue would allow for sidewalk to be constructed in this area. While there is not any sidewalk in proximity to this property, Staff recommends that a 5-foot wide sidewalk be provided.
III. STAFF RECOMMENDATION

Part A) Staff recommends denial of the requested Type 2 Design Alternative to allow an attached garage with entrance location on the front façade. If the Commission determines that a garage should be allowed on the front façade, staff recommends that the garage shall project no more than 3 feet from the entrance façade or a covered porch.

Part B) Staff recommends denial of the requested Type 2 Design Alternative to waive the sidewalk requirement. The applicant does not face a practical difficulty as it is possible to construct a public sidewalk along Herold Avenue. Closing gaps within the City’s sidewalk network is a priority of MoveDSM, the City’s transportation plan. It is understood that closing gaps often must be done incrementally and that new sections of sidewalk may not immediately connect to other sidewalk segments.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

Michael Madden 2504 48th Place, stated there are a lot of houses in this area with attached garages with a variety of style, so he doesn’t believe a house with a garage that protrudes 13-foot out would look out of place. This house plan fits the topography of this site as it’s a front-loading garage. He would prefer a plan that includes a front-loaded garage, but has a plan that he could use with a detached garage in the rear yard. That layout would require a lot of concrete and would reduce the functionality of the backyard. There are no sidewalks along Herold Avenue between SW 9th and SW 14th Street. It’s a cost that gets passed onto the homeowner and when there are no other sidewalks around, the homeowner has no benefit from it.

Greg Wattier asked to clarify what site plan they’re proposing?

Michael Madden stated the original one with the front-loaded garage.

CHAIRPERSON OPENED THE PUBLIC HEARING

No one requested to speak on the item.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Greg Wattier stated he could be supportive of not requiring the sidewalk. His preference would be the new plan that was shown as it fits the characteristics of the neighborhood, the garage should be in the back or detached, not facing the street.

Greg Jones stated although the neighborhood has detached garages, the 2nd plan is inefficient as we are adding more paving which is adding run off.

Kayla Berkson asked if the garage only projected 3-feet from the front porch, would that even work with this type of house plan?
Jason Van Essen stated the applicant would need to look for a new house plan or revise the current one. Only seven of the houses in the area have front-loaded garages. The garage is flush or setback from the house in six of these examples. The garage extends 3 feet past the front of the house in the last example. This is the basis for the staff recommendation.

Abby Chungath stated she would suggest moving the front of the house forward to meet the garage front.

Jason Van Essen stated that would create a multitude of changes to the design.

Greg Jones stated you could widen the gable over the garage.

Greg Wattier stated we don’t need to redesign the house, the commission should decide if the garage should be out in front of the house or not.

Francis Boggus stated someone driving down the street won’t know if the garage is 3-feet or 13 feet in front of the house, he would support granting both waivers.

**COMMISSION ACTION:**

Francis Boggus made a motion for:

Part A) **APPROVAL** of the requested Type 2 Design Alternative to allow an attached garage with entrance location on the front façade.

Part B) **APPROVAL** of the requested Type 2 Design Alternative to waive the sidewalk requirement.

**THE VOTE: 10-3 (Johnny Alcivar, Greg Wattier and Abby Chungath voted in opposition).**

Committee and Director’s Reports:

Dory Briles asked if any commission members would like to be a part of the virtual interviews for the Gray’s Lake Park Master plan.

Johnny Alcivar stated he would take part as he lives in the area.

Meeting adjourned at 9:52